

REMARKS

This responds to the Office Action mailed on December 30, 2008.

Claims 34 and 40 are amended, no claims are canceled, and no claims are added; as a result, claims 34-36, 40, and 43-44 stand pending in this application. The amendments are fully supported by the current application (e.g., at page 14, lines 6-9 and 24-27) and do not add new matter.

Examiner Interview Summary

Applicants would like to thank Examiner John Winter for the courtesy of a phone interview on January 15, 2009 between the Examiner and Applicant's representative Ali Mireshghi. During the interview, the proposed claim amendments now incorporated in the independent claims 34 and 40, and the cited references were discussed and an agreement was reached that independent claims 34 and 40, as amended, define over the existing prior art, and the 112 rejections are overcome by the amendments.

§112 Rejection of the Claims

Claims 34-36, 40, and 43-44 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

In the Final Office Action at page 3, the examiner contends that "claim 34 recites 'generated using the first computer fingerprint file;' however there is no corresponding process that implements any generation."¹ Independent claim 34 has been amended to replace the previous "generated using . . ." claim language with "being based on" As such, the amended independent claim 34 and its dependent claims 35-36 are not indefinite and particularly point out and distinctly claim the inventive subject matter.

In rejecting independent claim 40, the Final Office Action, at page 3, contends that there is no corresponding structure in either the first or second input units that implements any verification process. It is submitted that independent claim 40 has been amended to clarify that user computer was "verified by the first server." Thus, the verification is implemented by the

¹ Final Office Action, page 3

first server rather than the first or second input units. The Final Office Action further states that “claim 40 is indefinite because it is a hybrid claim. In particular, the claim appears to be directed to neither a ‘process’ nor a ‘machine,’ but rather embraces or overlaps two different statutory class of invention.”² Applicant submits that independent claim 40 has been amended to recite “a first input unit configured to communicate with a first server,” “a second input unit configured to communicate with a second server,” and “a processor configured to receive the first server message.” Thus, independent claim 40, as amended, now is clearly directed to a single statutory subject matter. Independent claim 40 has also been amended to replace the “generated using . . .” language with “being based on . . .,” as done with respect to claim 34. Therefore, at least for the reasons set forth above, the amended independent claim 40 and its dependent claims 43-44 are definite and particularly point out and distinctly claim the inventive subject matter.

Accordingly, Applicant respectfully requests the claim rejections under 35 U.S.C. §112 be reconsidered, in light of the amendments, and withdrawn.

§103 Rejection of the Claims

Claims 34-36, 40 and 43-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pare Jr. et al. (U.S. 6,269,348, hereinafter “Pare”) in view of Joshi (U.S. 4,688,169) and further in view of St. Regis Paper Co. v. Bemis Co., 193 USPQ 8 (hereinafter “St. Regis”).

For at least the reasons set forth below, Applicant respectfully submits that, in light of the amendments, this rejection is moot, and the above-identified claims are non-obvious over Pare, Joshi, and St. Regis, and are therefore allowable.

Independent claim 34, as amended, now recites, in pertinent part, “the first identification for the user, the first identification being based on the first computer fingerprint file identifying the user computer.” (Emphasis added throughout.)

In stark contrast to the method of claim 34, in Pare ³, for authorization of an electronic payment at least one payor “bid biometric sample” is used, and “the bid biometric sample is

² The Final Office Action, page 3

³ Excerpts from Pare, Abstract

obtained from the payor's person, in a transaction formation step.”⁴ The Final Office Action, at page 2, in an attempt to respond to the Applicant's arguments presented in the Applicant's previous response, filed September 15, 2008, cites Pare at col. 11, lines 39-49, as follows:

Once a BPID processor receives a bid biometric sample and PIN for identification, the processor searches through its database, retrieving all registered biometric samples that match or correspond to that particular bid PIN. Once all corresponding registered biometric samples are retrieved, the processor compares the bid biometric from the message to all retrieved registered biometric samples. If a match is found, the processor transmits the identity of the party back to TP 26. If no match is found, the processor transmits a "party not identified" message back to TP 26.⁵

As evident from the above-quoted passage, the processor retrieves all registered biometric samples and compares to the bid biometric sample from the message and if a match is found transmits the identity of the party. In other words, “the bid biometric sample” is used to identify the party. However, bid biometric sample is clearly distinguished from the claimed first *identification for the user, being based on the first computer fingerprint file identifying the user computer*. In other words, Pare's processor does not use an *identification for the user* (e.g., the party) that is *being based on the first computer fingerprint file identifying the user computer*, as recited in the amended claim 34. As such, Pare, in the cited passage, does not describe the limitation of “*receiving at a second mini-server . . . the at least one second mini-server message including the first identification for the user, the first identification being based on the first computer fingerprint file identifying the user computer*,” as recited in the amended claim 34. The Office Action has not cited Joshi and St. Regis as disclosing the “*first identification for the user*” limitation and Applicant could not find in the disclosure of Joshi and St. Regis the limitation discussed above and shown to be missing from Pare. Accordingly, Pare, Joshi and St. Regis, individually or in the combination proposed by the Final Office Action fail to teach or suggest each and every element of the amended independent claim 34.

Therefore, Applicant respectfully submits that, at least for the reasons set forth above, there are substantial differences between what is claimed and what is shown in Pare, Joshi, and St. Regis, whether they are considered separately or in combination. Furthermore, because the

⁴Id.

⁵ Pare, col. 11, lines 39-49

cited documents do not show all of the elements of the claimed subject matter of the amended claim 34, those differences are significant and non-obvious to a person of ordinary skill in the art at the time the application was filed. Accordingly, the amended claim 34 and its dependent claims 35, 36, 43, and 44 are not rendered obvious by cited references and are allowable.

Similar arguments as presented with respect to claim 34 are also applicable to a consideration of the amended claim 40. As such, at least for the reasons set forth above with respect to claim 34, amended claim 40 is also allowable.

Therefore, it is respectfully requested the claim rejections under 35 U.S.C. § 103(a) be reconsidered, in light of the amendment, and withdrawn.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned 408-406-4855 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date January 22, 2009

By 

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 22 day of January 2009.

Dawn R. Shaw

/Dawn R. Shaw/

Name

Signature